

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

JOSEPH LEON HERRON, JR.,

PLAINTIFF,

VS.

CIVIL ACTION NO. 2:06CV114-P-A

**BAPTIST MEMORIAL HEALTHCARE
CORPORATION; ET AL.,**

DEFENDANTS.

ORDER

This matter comes before the court upon Defendants' Motion to Strike Portions of Plaintiff's Declaration [83]. After due consideration of the motion and the response filed thereto, the court finds as follows, to-wit:

In its September 4, 2007 Order, the court ruled *inter alia* that summary judgment should be granted in favor of the defendants with regard to the plaintiff's claim for wrongful discharge in violation of Mississippi public policy. That claim was dismissed with prejudice. Therefore, the instant motion to strike portions the Plaintiff's declaration attached in support of his opposition to summary judgment is moot. Given that there is no dispute that Matt Ferrell did not possess the authority to fire the plaintiff, the issue of whether or not the plaintiff believed that Ferrell was his supervisor as expressed in the subject declaration is irrelevant to the remaining claim for FMLA retaliation.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendants' Motion to Strike Portions of Plaintiff's Declaration [83] is **DENIED AS MOOT**.

SO ORDERED this the 24th day of September, A.D., 2007.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE